

UNITED STATES DISTRICT COURT  
Northern District of California

SERVICE EMPLOYEES INTERNATIONAL  
UNION, *et al.*,

Plaintiffs,

v.

SAL ROSSELLI, *et al.*,

Defendants.

No. C 09-00404 WHA (MEJ)

**DISCOVERY ORDER RE DOCKET  
#410**

On November 19, 2009, the parties in this matter filed a joint letter detailing a discovery dispute concerning Defendants' alleged non-compliance with: (1) ¶13 of Judge Alsup's Supplemental Order (Dkt. #11); and (2) the Court's orders and the parties' agreements regarding the imaging of electronic devices. The Court has considered the parties' arguments and supporting materials and now **ORDERS** as follows.

1. Defendants' Amended Responses

The Court has reviewed Defendants' Amended Responses to Plaintiffs' First Set of Requests for Production of Documents (Dkt. #410, Ex. 1), and agrees with Plaintiffs that Defendants' responses fail to set forth the specific information detailed in ¶13 of Judge Alsup's Supplemental Order. While Defendants contend that requiring them to provide such information would elevate form over substance, Defendants fail to cite to any language in ¶13 indicating that anything less than strict compliance with the instructions set forth in that paragraph is permitted. Defendants' generalized statements, therefore, are insufficient. Accordingly, the Court **GRANTS** Plaintiffs' request as follows: Defendants shall correct the deficiencies in their Amended Response to set forth all of the information required by ¶13 of Judge Alsup's February 5, 2009 Supplemental Order and serve the amended document on Plaintiffs no later than December 7, 2009.

## 2. Electronic Devices

The Court has considered the parties' arguments with respect to Defendants' imaging and/or production of electronic devices. The Court now **ORDERS** as follows: Using the Plaintiffs' list described in the joint letter, within 10 days of this Order, Defendants shall prepare and serve a response addressing for each Defendant and for each device listed: (1) whether the Defendant or Defense counsel possesses the listed device; (2) where such device is located; and (3) any asserted privilege or basis for withholding production of the device. Any devices as to which Defendants do not assert a privilege and which fall within the scope of material previously ordered to be produced shall be provided to Plaintiffs' vendor within 10 days of the date of this Order. Once Plaintiffs receive Defendants' response, Plaintiffs shall be permitted to file a Motion to Compel production of any devices withheld. Defendants' opposition shall be due three business days after. Any reply brief from Plaintiffs shall be due two business days thereafter. Once the matter is fully briefed, the Court will advise the parties as to how it will proceed.

**IT IS SO ORDERED.**

Dated: November 20, 2009

  
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Maria-Elena James  
Chief United States Magistrate Judge